

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ANDREW CORZO, SIA HENRY, ALEXANDER LEO-GUERRA, MICHAEL MAERLENDER, BRANDON PIYEVSKY, BENJAMIN SHUMATE, BRITTANY TATIANA WEAVER, and CAMERON WILLIAMS, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

BROWN UNIVERSITY, CALIFORNIA INSTITUTE OF TECHNOLOGY, UNIVERSITY OF CHICAGO, THE TRUSTEES OF COLUMBIA UNIVERSITY IN THE CITY OF NEW YORK, CORNELL UNIVERSITY, TRUSTEES OF DARTMOUTH COLLEGE, DUKE UNIVERSITY, EMORY UNIVERSITY, GEORGETOWN UNIVERSITY, THE JOHNS HOPKINS UNIVERSITY, MASSACHUSETTS INSTITUTE OF TECHNOLOGY, NORTHWESTERN UNIVERSITY, UNIVERSITY OF NOTRE DAME DU LAC, THE TRUSTEES OF THE UNIVERSITY OF PENNSYLVANIA, WILLIAM MARSH RICE UNIVERSITY, VANDERBILT UNIVERSITY, and YALE UNIVERSITY,

Defendants.

**CERTAIN DEFENDANTS' STATEMENT OF COMPLIANCE WITH
LOCAL RULE 37.2**

This Local Rule 37.2 Statement accompanies Certain Defendants' Motion for Entry of Order Regarding the HEA Statute and Production of Certain FAFSA Information. Moving Defendants have conferred in good faith with both Plaintiffs and with Defendant Cornell

University during the month of January in an effort to present a joint motion for entry of the proposed Order.

Moving Defendants have conferred in writing through multiple email messages and during multiple phone calls with counsel for Cornell in January 2023, including on January 11, 2023 and continuing through January 19, 2023. These discussions have included counsel for all Defendants, as well as individual discussions and emails between Michael Rubin of Arnold & Porter Kaye Scholer LLP (counsel for the University of Chicago) and Norman Armstrong, Jr. and Emily Chen of King & Spalding LLP (counsel for Cornell). Cornell elected not to join the motion and instead file a separate statement of its position with the Court.

Following moving Defendants' effort to confer with Cornell, on January 20, 2023, moving Defendants provided a draft of a proposed joint motion and proposed Order to counsel for Plaintiffs. Between that time and the filing of this motion, moving Defendants and counsel for Plaintiffs have exchanged fourteen (14) additional emails, primarily between Michael Rubin of Arnold & Porter Kaye Scholer LLP, Counsel for Chicago, and Plaintiffs' counsel Robert Gilbert. Moving Defendants proposed repeatedly to discuss these issues telephonically with Plaintiffs' counsel. Plaintiffs' counsel responded to those proposals with email responses instead.

Moving Defendants and Plaintiffs exchanged by email multiple revisions to both the draft joint motion and the proposed Order. Moving Defendants accepted all of Plaintiffs' requested changes to both documents, with the exception of Plaintiffs' request that the proposed Order hold that the structured financial aid data files, which will contain the FAFSA information to be covered by the proposed Order, cannot be designated Attorneys' Eyes Only under the Confidentiality Order, or alternatively, that "purely FAFSA information" cannot be designated Attorneys' Eyes

Only. Moving Defendants proposed that they were available to discuss telephonically. Plaintiffs' counsel responded with an email instead.

Through these communications, moving Defendants explained that given the ambiguity surrounding the governing statute and regulatory guidance, moving Defendants believe that they require an Order authorizing them to collect, anonymize, and produce FAFSA information in their financial aid structured data. They explained that, for this reason, they propose a narrow order authorizing that process to move forward in light of upcoming production deadlines and that issues concerning confidentiality designations and uses of FAFSA information are best addressed once both parties have seen the data and can assess if there is any real dispute over use of the information. Moving Defendants specifically noted that depending on whom Plaintiffs seek to depose and with which witnesses they seek to use FAFSA information, there may likely be no dispute at all. Yet, Plaintiffs insisted that Defendants agree in advance that no purely FAFSA information could qualify for Attorneys' Eyes Only treatment. At that point, moving Defendants confirmed the parties were at an impasse.

Defendants respectfully submit that they have complied with Local Rule 37.2 as to the issues that need to be addressed in the proposed HEA Order in light of the upcoming production deadlines.

Dated: February 2, 2023

Respectfully submitted,

By: /s/ Michael A. Rubin
James L. Cooper
Michael Rubin
Tommy La Voy
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave, NW
Washington, DC 20001-3743
Tel: 202-942-5014

james.cooper@arnoldporter.com
michael.rubin@arnoldporter.com
tommy.lavoy@arnoldporter.com

Leah Harrell
ARNOLD & PORTER KAYE SCHOLER LLP
250 West 55th Street
New York, NY 10019-9710
Tel.: 212-836-7767
Leah.Harrell@arnoldporter.com

Valarie Hays
ARNOLD & PORTER KAYE SCHOLER LLP
70 W Madison Street
Suite 4200
Chicago, IL 60602
Tel.: 312-583-2440
valarie.hays@arnoldporter.com

Counsel for Defendant University of Chicago

By: /s/ Kenneth Kliebard (with consent)
Kenneth Kliebard
MORGAN, LEWIS & BOCKIUS LLP
110 North Wacker Drive
Suite 2800
Chicago, IL 60606-1511
Tel: 312-324-1000
kenneth.kliebard@morganlewis.com

Jon R. Roellke
MORGAN, LEWIS & BOCKIUS LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004-2541
Tel: 202-739-5754
jon.roellke@morganlewis.com

Sujal Shah
MORGAN, LEWIS & BOCKIUS LLP
One Market, Spear Street Tower, 28th Floor
San Francisco, CA 94105-1596
Tel: 415-442-1386
sujal.shah@morganlewis.com

Counsel for Defendant Brown University

By: /s/ Deepti Bansal (with consent)

Deepti Bansal
Alexander J. Kasner
COOLEY LLP
1299 Pennsylvania Avenue, NW
Suite 700
Washington, DC 20004-2400
Tel: 202-728-7027
dbansal@cooley.com
akasner@colley.com

Matthew Kutcher
COOLEY LLP
110 N. Wacker Drive
Chicago, IL 60606
Tel: 312-881-6500
mkutcher@cooley.com

Counsel for Defendant California Institute of Technology

By: /s/ Amy Van Gelder (with consent)

Patrick Fitzgerald
Amy Van Gelder
SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
155 N. Wacker Drive
Chicago, IL 60606-1720
Tel: 312-407-0508
patrick.fitzgerald@skadden.com
amy.vangelder@skadden.com

Karen Hoffman Lent
SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
One Manhattan West
Room 40-216
New York, NY 10001-8602
Tel: 212-735-3276
karen.lent@skadden.com

Counsel for Defendant The Trustees of Columbia University in the City of New York

By: /s/ Terri L. Mascherin (with consent)

Terri L. Mascherin
Reid J. Schar
JENNER & BLOCK LLP
353 N. Clark Street,
Chicago, IL 60654-3456
Tel: 312-222-9350
tmascherin@jenner.com
rschar@jenner.com

Ishan K. Bhabha
Douglas E. Litvack
Lauren J. Hartz
JENNER & BLOCK LLP
1099 New York Avenue, NW
Suite 900
Washington, DC 20001-4412
Tel: 202-637-6327
ibhabha@jenner.com
dlitvack@jenner.com
lhartz@jenner.com

Counsel for Defendant Trustees of Dartmouth College

/s/ James A. Morsch (with consent)
James A. Morsch
Jim.morsch@saul.com
SAUL EWING ARNSTEIN & LEHR
161 North Clark, Suite 4200
Chicago, IL 60601
Telephone: (312) 876-7100
Facsimile: (312) 876-0288
IL Attorney ID #6209558

Christopher D. Dusseault (pro hac vice)
cdusseault@gibsondunn.com
Jacqueline L. Slesia
jslesia@gibsondunn.com
GIBSON, DUNN & CRUTCHER LLP
333 South Grand Avenue
Los Angeles, CA 90071
Telephone: (213) 229-7000

Counsel for Defendant Duke University

By: /s/ Tina M. Tabacchi (with consent)

Tina M. Tabacchi
JONES DAY
77 West Wacker Drive
Suite 3500
Chicago, IL 60601-1692
Tel.: 312-782-3939
tmtabacchi@jonesday.com

Craig A. Waldman
JONES DAY
51 Louisiana Avenue, N.W.
Washington, DC 20001-2113
Tel.: 202-879-3877
cwaldman@jonesday.com

Counsel for Defendant Emory University

By: /s/ Britt M. Miller (with consent)
Britt M. Miller
Daniel T. Fenske
Jed W. Glickstein
MAYER BROWN LLP
71 South Wacker Drive
Chicago, IL 60606
Tel: 312-783-0600
bmiller@mayerbrown.com
dfenske@mayerbrown.com
jglickstein@mayerbrown.com

Counsel for Defendant Georgetown University

By: /s/ Jeffrey J. Bushofsky (with consent)

Jeffrey J. Bushofsky
ROPES & GRAY LLP
191 North Wacker Drive 32nd Floor
Chicago, IL 60606-4302
Tel: 312-845-1200
jeffrey.bushofsky@ropesgray.com

Chong S. Park
Samer M. Musallam
ROPES & GRAY LLP
2099 Pennsylvania Avenue, NW
Washington, DC 20006-6807
Tel: 202-508-4600

chong.park@ropesgray.com
samer.musallam@ropesgray.com

Counsel for Defendant Johns Hopkins University

By: /s/ Eric Mahr (with consent)
Eric Mahr
Jan Rybnicek
Daphne Lin
FRESHFIELDS BRUCKHAUS DERINGER
700 13th Street, NW
Washington, DC 20005
Tel: 202-777-4500
eric.mahr@freshfields.com
jan.rybnicek@freshfields.com
daphne.lin@freshfields.com

Counsel for Defendant Massachusetts Institute of Technology

By: /s/ Scott D. Stein (with consent)
Scott D. Stein
Benjamin R. Brunner
Kelsey Annu-Essuman
SIDLEY AUSTIN LLP
1 South Dearborn Street
Chicago, IL 60603
Tel.: 414-559-2434
sstein@sidley.com
bbrunner@sidley.com
kannuessuman@sidley.com

Counsel for Defendant Northwestern University

By: /s/ Robert A. Van Kirk (with consent)
Robert A. Van Kirk
Cole T. Wintheiser
Jonathan Pitt
Matthew D. Heins
Sarah F. Kirkpatrick
WILLIAMS & CONNOLLY LLP
725 Twelfth Street, N.W.
Washington, D.C. 20005

Tel: 202-434-5163
rvankirk@wc.com
cwintheiser@wc.com
jpitt@wc.com
mheins@wc.com
skirkpatrick@wc.com

James Peter Fieweger
MICHAEL BEST & FRIEDRICH LLP
444 West Lake Street
Suite 3200
Chicago, IL 60606
Tel.: 312-222-0800
jpfieweger@michaelbest.com

*Counsel for Defendant University of Notre
Dame du Lac*

By: /s/ David Gringer (with consent)
Seth Waxman
WILMER CUTLER PICKERING HALE
AND DORR LLP
2100 Pennsylvania Avenue NW
Washington, DC 20037
Tel: 202-663-6800
seth.waxman@wilmerhale.com

David Gringer
Alan Schoenfeld
WILMER CUTLER PICKERING HALE
AND DORR LLP
7 World Trade Center
250 Greenwich Street
New York, NY 10007
Tel: 212-937-7294
david.gringer@wilmerhale.com
alan.schoenfeld@wilmerhale.com

Daniel Martin Feeney
Edward W. Feldman
MILLER SHAKMAN LEVINE & FELDMAN
LLP
180 North LaSalle Street
Suite 3600
Chicago, IL 60601
Tel.: 312-263-3700

dfeeney@millershakman.com
efeldman@millershakman.com

*Counsel for Defendant The Trustees of the
University of Pennsylvania*

By: /s/ Norm Armstrong (with consent)
Norm Armstrong
Christopher Yook
KING & SPALDING LLP
1700 Pennsylvania Avenue, NW
Suite 200
Washington, D.C. 20006
Tel.: 202-626-8979
narmstrong@kslaw.com
cyook@kslaw.com

Emily Chen
KING & SPALDING LLP
1185 Avenue of the Americas
34th Floor
New York, NY 10036
Tel: 212-556-2224
echen@kslaw.com

Zachary T. Fardon
KING & SPALDING LLP
110 N Wacker Drive
Suite 3800
Chicago, IL 60606
312 764 6960
zfardon@kslaw.com

*Counsel for Defendant William Marsh Rice
University*

By: /s/ J. Mark Gidley (with consent)
J. Mark Gidley
WHITE & CASE LLP
701 Thirteenth Street, NW
Washington, DC 20005-3807
Tel: 202-626-3600
mgidley@whitecase.com

Robert A. Milne
David H. Suggs

WHITE & CASE LLP
1221 Avenue of the Americas
New York, NY 10020-1095
Tel: 212-819-8200
rmilne@whitecase.com
dsuggs@whitecase.com

Counsel for Defendant Vanderbilt University

By: /s/ Charles A. Loughlin (with consent)
Charles A. Loughlin
Benjamin F. Holt
HOGAN LOVELLS US LLP
555 Thirteenth Street, NW
Washington, DC 20004-1109
Tel: 202-637-5600
chuck.loughlin@hoganlovells.com
benjamin.holt@hoganlovells.com

Stephen Novack
Stephen J. Siegel
Serena G. Rabie
NOVACK AND MACEY LLP
100 North Riverside Plaza, 15th Floor
Chicago, IL 60606-1501
Tel.: 312-419-6900
snovack@novackmacey.com
ssiegel@novackmacey.com
srabie@novackmacey.com

Counsel for Defendant Yale University